S.B. CIVIL WRIT PETITION NO.2431/2002

Date :: 08.03.2006

HON'BLE MR. JUSTICE R.C. GANDHI

Mr.Sanjay Mathur, for the petitioner.

Petitioner has been served with a charge-sheet providing an opportunity to the petitioner to reply the charge-sheet. Instead of replying the charge-sheet, the petitioner has challenged the charge-sheet by means of this petition.

it is not the case of the petitioner that the charge-sheet has been issued by the incompetent authority. The writ petition against the charge-sheet is not maintainable, as held by the Supreme Court in case title Chief of Army Staff & Ors. vs. Major Dharam Pal Kukrety, reported in 1985 (2) SCC 412 observing as under:-

> "If, on the other hand, the Chief of the Army Staff had the power in law to issue the said notice, it would not be open to the respondent to approach the court under Article 226 of the Constitution at the stage of notice only and in such event his writ petition could not be said to be premature."

The writ petition for the aforesaid reasons is premature and is accordingly dismissed.

[R.C. GANDHI],J.

Ashwini/-